



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7

11201 Renner Boulevard  
Lenexa, Kansas 66219

WENF APR 26 2016

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

Article No.: 7013 3020 0001 1645 9196

Mr. Kenneth Klinepeter  
Operations Supervisor  
City of Middletown  
60 West Emaus Street  
Middletown, Pennsylvania 17057-1499

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act (33 U.S.C. § 1318)**

**IMMEDIATE ATTENTION REQUIRED**

Dear Mr. Klinepeter:

The U.S. Environmental Protection Agency is issuing this Request for Information to City of Middletown pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a). In accordance to Section 405(d)(1) of the CWA, the EPA promulgated regulations governing the *Standards for the Use or Disposal of Sewage Sludge* which are set forth at 40 C.F.R. § 503. These regulations establish recordkeeping and reporting requirements, pollutant limits and site management practices applicable to owners or operators of treatment works treating domestic sewage, and standards for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in treatment works. Pursuant to 40 C.F.R. § 503.18(a), Class I sludge management facilities, Publicly Owned Treatment Works (POTWs) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve a population of 10,000 or more, shall submit the information regarding sewage sludge use required by 40 C.F.R. § 503.18(a) to the EPA by February 19, annually. Similar reporting requirements apply to POTW surface disposal practices pursuant to 40 C.F.R. § 503.28(a) and to incineration practices pursuant to 40 C.F.R. § 503.48(a). The EPA has received your 2015 Annual Sludge report, but some of the required information was not provided as required.

Section 308 of the CWA, 33 U.S.C. § 1318, authorizes the EPA to require the submission of any information necessary to carry out the objectives of the CWA. You must provide the EPA with this information according to the instructions in the enclosures. Enclosure A specifies the information that you must submit. The EPA requires you to provide the information requested in Enclosure A **within fifteen (15) calendar days of receipt of this letter**. Please read the instructions in Enclosure A carefully before preparing your responses. Failure to provide a full and complete response to this Information Request, or to adequately justify a failure to respond within the time frame specified above, may result in an EPA enforcement action pursuant to federal law, including, but not limited to 33 U.S.C. § 1319 and 18 U.S.C. 1001.

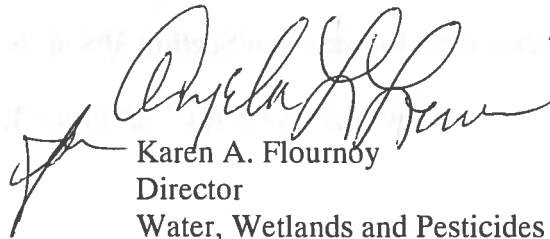


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Under 40 C.F.R. § 2, you may assert a claim of business confidentiality for any portion of the submitted information, except effluent data. The EPA will only disclose information covered by such a claim to the extent permitted and by means of the procedures set forth in 40 C.F.R. § 2. If no claim of confidentiality accompanies the information received, the EPA may make the information available to the public without further notice to you. If you assert a confidentiality claim for any of the information you provide to the EPA, you must prove that claim. Enclosure B specifies the assertion and substantiation requirements for business confidentiality claims.

This Request for Information is being sent through the EPA's Biosolids Center located in EPA Region 7, Lenexa, Kansas. As the enclosed instructions indicate, the response to this Request for Information is to be sent to the EPA Region 7. We appreciate your cooperation and prompt attention to this matter. If you have any questions regarding this information request, please contact Jodi Bruno in the EPA's Biosolids Center at (913) 551-7810, or by e-mail to [R7\\_Biosolids\\_Center@epa.gov](mailto:R7_Biosolids_Center@epa.gov).

Sincerely,



Karen A. Flourney  
Director  
Water, Wetlands and Pesticides Division

Enclosures

cc: Ann Carkhuff, EPA Region 3

## ENCLOSURE A

### INFORMATION REQUEST AND INSTRUCTIONS

The following information is requested by the U.S. Environmental Protection Agency (EPA) pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318.

#### **I. Instructions**

1. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request.
2. If any response cannot be provided in full, provide the response to the extent possible along with an explanation of why the response cannot be provided in its entirety.
3. Except for a cover letter or memorandum and the Statement of Certification, only copies, and not original documents, should be submitted pursuant to this request. Documents and data may be submitted on a compact disc in PDF, Word, Excel or other widely available electronic format.
4. In each submission required by this Information Request, identify the person to contact regarding your submission, including title, address and phone number.
5. Your responses to this Information Request are to be provided by a qualified professional. For each response required below, provide the name and credentials of the person(s) providing information in response to this Information Request.
6. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA within fourteen (14) calendar days of when the information or documents become known or available. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is inaccurate, false or misrepresents the truth, you must notify the EPA of this fact immediately and provide a corrected response within fourteen (14) calendar days of when you find the information is false or misrepresents the truth.
7. Confidential Business Information. Information requested by this letter must be submitted to the EPA regardless of a claim of confidentiality. If you believe any of the requested information is confidential, you may assert a business confidentiality claim under the provisions of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), and 18 U.S.C. § 1905, and the regulations at 40 C.F.R. § 2, and in the manner described at 40 C.F.R. § 2.203(b). If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you. See Enclosure B for additional instructions on supplying confidential information.
8. Accurate and Truthful Information Required. Compliance with this information request is mandatory. Please be advised that the failure to respond accurately, or the submission of false

information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Please be aware that the issuance of this letter and your response with the requested information does not relieve you of any responsibility under the CWA, including, but not limited to seeking, maintaining, or complying with an applicable NPDES permit.

9. You must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that this document and all enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, which include the possibility of fine and imprisonment for knowing violations.

10. Submission of Response to Information Request. All responses to this Information Request must be submitted within the timeframes identified in Section III, below. Each response should be submitted in a manner that allows you to track delivery, and must be submitted to:

**Biosolids Center of Excellence  
ATTN: Jodi Bruno  
U.S. Environmental Protection Agency  
Water, Wetlands and Pesticides Division  
11201 Renner Boulevard  
Lenexa, Kansas 66219**

## **II. Definitions**

All terms used in this Information Request that are not defined below shall be defined as they are defined at Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. §§ 503.9, 503.11, 503.21, 503.31, 503.41 and 122.2. Unless otherwise indicated, the following definitions shall apply strictly for the purposes of this Information Request:

1. “Record” is defined as any recording of information in tangible form. It includes, but is not limited to, in print or electronic form, documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, computer print outs and computer data bases.
2. “Document” is defined as any writings, drawings, graphs, charts, photographs, phone records, electronic mail, facsimile, and other data compilations from which information can be obtained, translated if necessary, through detection devices into reasonably usable form. Documents should be produced as they are kept in the usual course of business.
3. “Biosolids” is defined as sewage sludge generated during the treatment of domestic sewage in a treatment works.

4. "Facility" is defined as the Middletown WWTP, NPDES Permit No.: PAL020664 and associated equipment and land used for the treatment, processing, or disposal of biosolids.
5. "Sewage sludge" is defined at 40 CFR § 503.9 and includes domestic sewage and a material derived from sewage sludge.

### **III. Requested Information**

**Within fifteen (15) days of receipt of this information request**, provide the following information:

Please provide the following processing and monitoring information for the report year 2015:

1. Submit to the EPA a complete annual report for sludge use or disposal activities conducted in calendar year 2015. The report must include all of the information required by 40 C.F.R. §§ 503.18(a), 503.28(a) or 503.48(a), as applicable. The following information was not provided or lacked sufficient detail in the information provided in the January 19, 2016, report submitted by your facility.
  - a. Provide general facility information including:
    - i. Design sludge production.
    - ii. Actual sewage sludge production in 2015, in dry metric tons.
    - iii. Final disposition/handling of sewage sludge.
    - iv. If sewage sludge was received from offsite and processed at the facility, provide quantity in dry metric tons.
    - v. The quantity of sewage sludge related materials removed from the facility for land application (including sold or given away), in dry metric tons.
    - vi. The quantity of sewage sludge related materials retained on site at the end of the calendar year, in dry metric tons.
  - b. For all sewage sludge related materials produced or processed at your facility for calendar year 2015, provide all records pertaining to whether or not the materials meet the Class A or Class B pathogen classification for sewage sludge found in 40 CFR § 503. The records should include copies of the following:
    - i. Specific records identifying whether or not the pathogen process requirements were met in accordance with 40 C.F.R. § 503.32(a)&(b) (e.g. percent solids, time, compost temperature, moisture content, pile turnings, pH).
    - ii. All analytical laboratory results for pathogen testing (fecal coliform, salmonella, helminth ova, enteric viruses) including test methods, chain of custody, and holding times.
  - c. For all sewage sludge related materials produced or processed at your facility for calendar year 2015, provide all records pertaining to whether or not the materials meet the vector attraction reduction (VAR) requirements in accordance with 40 C.F.R. § 503.33(b)(1) through (b)(8). The records should include copies of the following:

- i. Specific records identifying whether or not the VAR process requirements were met in accordance with 40 C.F.R. § 503.33(b)(1) through (b)(8) (e.g. volatile solids percent reduction, specific oxygen uptake rate, time, temperature, pH).
  - ii. All analytical laboratory results for VAR testing including test methods, chain of custody, and holding times.
- d. For all instances in 2015 when either Pathogen Reduction, Vector Attraction Reduction or Pollutant limits were not met the following information is required:
  - i. Provide a description of how the sewage sludge was reprocessed or handled.
  - ii. Provide all additional test results on the reprocessed sewage sludge.
- e. An accurate and detailed description of your facility's process to produce Class A or Class B sewage sludge material.
- f. Provide hauling logs for each shipment of sludge removed from your facility.
- g. Records on agronomic rates and loading rates (if applicable) for each field if the sewage sludge are distributed in bulk to agricultural fields.

## **ENCLOSURE B**

### **INSTRUCTIONS FOR SUBMITTING CONFIDENTIAL INFORMATION**

You must provide the information requested even though you may contend that it includes confidential information. You may assert a business confidentiality claim covering all or part of the information requested in this Information Request, as provided in 40 C.F.R. §2.203(b). Please note that “effluent data” – as defined in 40 C.F.R. § 2.302(a)(2) – provided to the EPA pursuant Section 308 of the Act, 33 U.S.C. § 1318, is not entitled to confidential treatment under 40 C.F.R. § 2.

To assert a confidentiality claim, you must submit the requested information and indicate that you are asserting a claim of confidentiality. You must mark any document over which you assert a claim of confidentiality by attaching a cover sheet stamped or typed with a legend indicating your intent to claim confidentiality. The stamped or typed legend, or other suitable form of notice, should employ language such as “confidential” or “business confidential,” and indicate a date, if any, when the information should no longer be treated as confidential. The EPA will only disclose the information covered by such a claim to the extent permitted and by means of the procedures set forth in Section 308(b) of the CWA, 33 U.S.C. § 1318(b), and 40 C.F.R. § 2. You must clearly identify allegedly confidential portions of otherwise non-confidential documents.

Please submit your response to this Information Request so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope. The EPA will construe the failure to furnish a confidentiality claim with your response as a waiver of that claim, and the information may be made available to the public without further notice to you. All confidentiality claims are subject to the EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, that you intend to continue to do so, and that the information is not and has not been obtainable by legitimate means without your consent.

If you assert a confidentiality claim for any of the information you submit to EPA, you bear the burden of substantiating that claim. EPA will give conclusory allegations little or no weight in its determination. For each document or response you claim confidential, you must separately address the following points:

- a. The portions of the information alleged to be entitled to confidential treatment.
- b. The period of time for which confidential treatment is desired (*e.g.*, until a certain date, until the occurrence of a specific event, or permanently).
- c. Measures taken by you to guard against the undesired disclosure of the information to others.
- d. The extent to which the information has been disclosed to others; and the precautions taken in connection therewith.
- e. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available.

- f. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

Finally, the EPA may disclose information which you submit in response to this Information Request to authorized representatives of the United States pursuant to 40 C.F.R. § 2.302(h) even if you assert that all or part of the information is confidential business information. Please be advised that the EPA may disclose all responses to this Information Request to one or more private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to confidential treatment, you may comment on this potential disclosure to authorized representatives when you submit your response to this Information Request.